

Tribunal Constitucional, 27 January 2014: Joinder of Claims and Fundamental Right of Citizens to Effective Judicial Protection

On the 27 January 2014 the Spanish Constitutional Court (*Tribunal Constitucional*) has issued an important decision in the context of collective proceedings brought before the *Audiencia Nacional* regarding the liability of the Spanish public administration (AENA and Ministerio de Fomento) in the air traffic controllers' case in 2010- The *Tribunal Constitucional* has upheld the appeal for *amparo*- protection of constitutional rights- declaring null and void two decisions of the *Audiencia Nacional* which considered that the conditions established in arts 34 ff. of the Act on the Jurisdiction for judicial review were not met - i.e. claims referring to several acts, provisions or actions shall be joined when some claims are a reproduction, confirmation or execution of other or some other direct connection exists between the claims. When those requisites are met, the court may at any point rule for joinder on an *ex officio* basis or at the request of any party.

Briefly, in its *auto* of 17 September 2012 and *providencia* of 19 June 2012, the *Audiencia Nacional* had denied the request for joinder of claims lodged by hundreds of passengers affected by the airspace closure following the air traffic controllers' strike in December 2010. Nevertheless, the *Audiencia Nacional* had allowed individual air passenger claims against the Public administration as a means of guaranteeing the fundamental right to obtain effective protection from the courts -granted by art 24 of the Spanish Constitution.

Abdelkader Castellanos and others filed the aforementioned appeal for the protection of constitutional rights before the Constitutional Court in 2012. They alleged mainly a violation of their right to obtain effective protection from the judges and courts and their right of access to justice (art. 24 Spanish Constitution). Those violations were allegedly caused by the rejection of the joinder and that the rulings under appeal contravened the duty to state the reasons on which a decision is based- art. 24. 1 of the Spanish Constitution, lack

of *motivación*.

After reviewing the *Audiencia Nacional* legal reasoning, the Constitutional Court concluded that when the *Audiencia* denied the joinder it did not provide the grounds for rejecting that claim, so the fundamental right of citizens to obtain effective judicial protection was effectively violated. Accordingly, it has declared null and void both *Audiencia Nacional* decisions and requested the Court to re evaluate the case and either provide detailed grounds for its initial findings or admit the joinder of claims.

The full Constitutional Court decision is downloadable by clicking [here](#) (in Spanish).